**Remarks/Arguments**

**A.     Pending Claims**

Claims 1,42, 48, 54, 62, 64, 158, 163, and 164 have been amended.  Claim 165 is new. Claims 1, 4-6, 9-14, 16-21, 24-37, 39-42, 45-65, and 158-165 are pending in the case.

**B.     The Claims Are Not Indefinite Pursuant To 35 U.S.C. § 112, Second Paragraph**

The Examiner rejected claim 158 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.  The Examiner stated:

> The phrase "unusual or difficult" is vague and indefinite. For the purpose of this examination, the Examiner interprets this phrase to be any type of a reported insurance claim loss (i.e. stolen car, broken leg).

(Office Action, page 2)

Although Applicant does not necessarily agree with the Examiner's position, Applicant has amended claim 158.  Amended claim 158 recites, "wherein the value of the loss type multiplier is more indicative of a potential for fraud for requests that are more unusual or difficult to verify and less indicative of a potential for fraud for requests that are less unusual or difficult to verify." Applicant submits that amended claim 158 is not indefinite under 35 U.S.C. §112, second paragraph.  Applicant respectfully request removal of the rejection.

**C.     The Claims Are Not Obvious Over Torres And In View of Pendleton Pursuant To 35 U.S.C. § 103(a)**

The Examiner rejected claims 1 - 2, 6, 8 -12, 16 - 19, 22, 25 - 27, 39 - 41, 48 - 49, 51 - 52, 158 - 159, and 161 under 35 U.S.C. 103(a) as obvious over U.S. Patent Publication No. 2005/0043961 to Torres et al. ("Torres") in view of U.S. Patent No. 6,253,186 to Pendleton Jr. ("Pendleton").  Applicant respectfully disagrees with these rejections.

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In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner* et al., 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). (Emphasis added).

Independent Claim 1

Amended claim 1 recites, *inter alia*:

> associating a loss type value with each of at two of a plurality loss types, wherein the loss type value varies by loss type, wherein the loss type values for the loss types are indicative of a potential for fraud associated with a respective loss type;
>
> ...
>
> determining one or more loss types for the at least one request, wherein the one or more loss types for the at least one request are one or more of the plurality of loss types;
>
> applying one or more business rules to the at least one request data element to determine a fraud potential indicator; wherein at least one of the applied business rules applies a loss type multiplier whose value includes the loss type value associated with at least one of the one or more determined loss types of the plurality of loss types; wherein the value of the loss type multiplier is indicative of a potential for fraud associated with the loss types for the at least one request;

Support for these amendments may be found at least at page 22, lines 9-27; page 23, Table 2; page 28, lines 4-26; and page 29, lines 4-12.

Claim 1 is directed to a method that includes determining a loss type of a request from among a plurality of loss types. These loss types have an associated loss type value that varies with the loss type. For example, as described in Applicant's specification:

In some embodiments, the loss type may indicate fraud. For example, request types that are unusual or difficult to verify may indicate more potential for fraud. In various embodiments, a loss type multiplier may be applied (multiple loss types may be added). For example:

Failure to Yield = 7
Hit and Run = 12
Over Center/Head on/Side Swipe = 5
Single Vehicle Collision = 7
Insured Failed to Obey Rules and Regulations = 5
claimant's Unattended Vehicle Rolled Causing Collision = 5

Other multipliers may also be used.

The method of claim 1 also includes applying a business rule that includes applying a loss type multiplier. The loss type multiplier includes the loss type value associated with the determined loss type from among the plurality of loss types. Thus, in the example set forth in the specification, if a request were determined to relate to a Failure to Yield loss type, the loss type multiplier would include a value of 7 for the Failure to Yield loss type.

With respect to previously submitted claim 1, the Examiner states:

> Torres fails to teach a method comprising <u>wherein at least of the one business rules applies a loss type multiplier based on at least one loss type associated with the at least one request to determine a fraud potential indicator, wherein the value of the loss type multiplier depends on a tendency for fraud associated with a request type of the at least one request.</u>
> Pendleton teaches a method comprising <u>wherein at least of the one business rules applies a loss type multiplier based on at least one loss type associated with the at least one request to determine a fraud potential indicator</u> (column 2, lines 18 - 31 where the Examiner interprets the multiplier as a predefined number or value), <u>wherein the value of the loss type multiplier depends on a tendency for fraud associated with a request type of the at least one request</u> (column 2, lines 18 - 31 and column 7, lines 4 - 59).

(Office Action, page 4)

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Pendleton, including portions cited by the Examiner, states:

> The step of processing the data preferably includes the steps of: selecting elements of information from the data stored in the claim file; encoding the selected elements of information to produce an encoded claim file; and storing the encoded claim file. The encoded claim file is preferably sorted by supplier or provider code to produce a sorted, encoded claim file. The processing step further comprises the steps of reading data from the sorted encoded claim file, and analyzing this data by means of a neural network to produce the fraud indicator for the selected supplier or provider. In a preferred embodiment, the analyzing step includes producing a plurality of fraud indicators based on a plurality of claims submitted by the selected supplier or provider, and computing a composite fraud indicator from the plurality of indicators. In at least one embodiment of the invention, the composite fraud indicator is computed by averaging a plurality of fraud indicators for the selected provider or supplier.
> (Pendleton, col. 2, lines 8-31)

> Block 60 represents the process by which a neural network analyzes the claim line information in claim file 48 to produce a number or score for each claim line which is viewed as a fraud index or indicator. This value is stored in memory 62 and is accumulated (block 64) for each supplier or provider. In one embodiment of the invention, the process of accumulating the data involves simply adding the fraud indicators produced for each claim line to produce a total for a particular supplier or provider. Composite fraud data is stored in memory 66 for subsequent use in the computational process of branch B. After storage, the system determines, in block 68, if additional data remains to be processed. If so, the process of reading the next claim line block 52) begins. The process of analyzing each claim line continues until block 54 detects a change in provider number. When the provider number changes, and the system is not examining the first record in claim file 48, the system determines that all lines for the prior provider have been analyzed and proceeds to branch B. In block 58, a computation is performed on the composite fraud data stored in block 66 to compute a composite fraud indicator. In one embodiment of the invention, this computation involves computing an average fraud indicator for the claim lines analyzed for a particular provider. In other words, the fraud indicators stored in memory 62 for each claim line analyzed for a particular provider are summed and divided by the total number of claim lines. This approach represents one of several which may be used. Other approaches include computing a weighted

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average of the individual fraud indicators, or selecting a subset of the indicators for use in computing the composite fraud indicator. After the composite fraud indicator is computed, it is compared to a threshold number which is based upon prior experience (block 70). The threshold number may be arbitrarily fixed or, alternatively, may be dynamic in the sense of being periodically or continuously updated by the system as additional data is processed. If the composite fraud indicator exceeds the threshold, the results for the subject supplier or provider are written to neural network (NN) data base file 72 in a process represented by block 74. Only information on providers exceeding the threshold is stored in NN data base file 72. Data base file 72 serves as an input to a data base tracking system which provides for continuity across several days (or other period of interest). In the event the fraud indicator exceeds the threshold value, provider results are also written to statistics file 76 in a process represented by block 78. If the composite fraud indicator does not exceed the threshold, the system asks if a report is to be provided on all providers (block 80). If so, the provider results are written to statistics file 76. Statistics file 76 is essentially a report file which can be viewed by the user on line or printed, at the user's discretion. The system then branches as indicated to C and proceeds with neural network analysis of the first claim line for the new provider. This process continues until the end of sorted encoded claim file 48 is detected by block 68.
(Pendleton, col. 7, lines 4-59)

Pendleton discloses producing a plurality of fraud indicators based on claims submitted by a selected supplier or provider and computing a composite fraud indicator from the plurality of fraud indicators. The composite fraud indicator can be computed by averaging a plurality of fraud indicators for the selected provider or supplier. Pendleton also discloses that a composite fraud indicator can be based on adding, averaging, or weighted average of multiple individual fraud indicators. Pendleton, considered alone or in combination with the other cited art, does not appear to teach or suggest associating a loss type value with each of at two of a plurality loss types, wherein the loss type value varies by loss type, wherein the loss type values for the loss types are indicative of a potential for fraud associated with a respective loss type, determining one or more loss types for the at least one request, wherein the one or more loss types for the at least one request are one or more of the plurality of loss types; and applying one or more business rules to

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a request data element including applying a <u>loss type</u> multiplier whose value includes the <u>loss type value associated with at least one of the one or more determined loss types of the plurality of loss types</u>; wherein the value of the loss type multiplier is indicative of a potential for fraud associated with the loss types for the at least one request, in combination with the other features of claim 1.

For at least these reasons, Applicant submits that claim 1 is allowable over the cited art.

<u>Independent Claims 42, 48, 54, 62, and 64</u>

Amended claim 42 describes a combination of features including:

associate a loss type value with each of at two of a plurality loss types, wherein the loss type value varies by loss type, wherein the loss type values for the loss types are indicative of a potential for fraud associated with a respective loss type;

...

determine one or more loss types for the at least one request, wherein the one or more loss types for the at least one request are one or more of the plurality of loss types;

apply one or more business rules to the at least one request data element to determine a fraud potential indicator; wherein at least one of the applied business rules applies a loss type multiplier whose value includes the loss type value associated with at least one of the one or more determined loss types of the plurality of loss types; wherein the value of the loss type multiplier is indicative of a potential for fraud associated with the loss types for the at least one request;

Amended claim 48 describes a combination of features including:

associating a loss type value with each of at two of a plurality loss types, wherein the loss type value varies by loss type, wherein the loss type values for the loss types are indicative of a potential for fraud associated with a respective loss type;

...

determining one or more loss types for the at least one request, wherein the one or more loss types for the at least one request are one or more of the plurality of loss types;

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applying one or more business rules to the at least one request data element to determine a fraud potential indicator; wherein at least one of the applied business rules applies a loss type multiplier whose value includes the loss type value associated with at least one of the one or more determined loss types of the plurality of loss types; wherein the value of the loss type multiplier is indicative of a potential for fraud associated with the loss types for the at least one request;

Amended claim 54 describes a combination of features including:

associating a loss type value with each of at two of a plurality loss types, wherein the loss type value varies by loss type, wherein the loss type values for the loss types are indicative of a potential for fraud associated with a respective loss type;

determining one or more loss types for at least one request relating to one or more of a plurality of insurance claims, wherein the one or more loss types for the at least one request are one or more of the plurality of loss types;

applying one or more business rules to the at least one request relating to one or more of a plurality of insurance claims to determine a fraud potential indicator; wherein at least one of the business rules applies a loss type multiplier whose value includes the loss type value associated with at least one of the one or more determined loss types of the plurality of loss types; wherein the value of the loss type multiplier is indicative of a potential for fraud associated with the loss types for the at least one request

Amended claim 62 describes a combination of features including:

associate a loss type value with each of at two of a plurality loss types, wherein the loss type value varies by loss type, wherein the loss type values for the loss types are indicative of a potential for fraud associated with a respective loss type;

determine one or more loss types for at least one request relating to one or more of a plurality of insurance claims, wherein the one or more loss types for the at least one request are one or more of the plurality of loss types;

apply one or more business rules to the at least one request relating to one or more of a plurality of insurance claims to determine a fraud potential indicator; wherein at least one of the business rules applies a loss type multiplier whose value includes the loss type value associated with at least one of the one or more determined loss types of the plurality of loss

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types; wherein the value of the loss type multiplier is indicative of a potential for fraud associated with the loss types for the at least one request

Amended claim 64 describes a combination of features including:

associating a loss type value with each of at two of a plurality loss types, wherein the loss type value varies by loss type, wherein the loss type values for the loss types are indicative of a potential for fraud associated with a respective loss type;

determining one or more loss types for at least one request relating to one or more of a plurality of insurance claims, wherein the one or more loss types for the at least one request are one or more of the plurality of loss types;

applying one or more business rules to the at least one request relating to one or more of a plurality of insurance claims to determine a fraud potential indicator; wherein at least one of the business rules applies a loss type multiplier whose value includes the loss type value associated with at least one of the one or more determined loss types of the plurality of loss types; wherein the value of the loss type multiplier is indicative of a potential for fraud associated with the loss types for the at least one request

For at least reasons similar to those set forth above with respect to claim 1, Applicant submits that the cited art does teach or suggest at least these features of claims 42, 48, 54, 62, and 64 in combination with the other features of the claims.
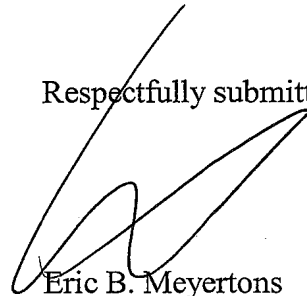
## E.     New Claims

New claim 165 recites: "wherein each of at least two of the plurality of loss types of the plurality of loss types corresponds to a type of vehicle collision." The cited art does not appear to teach or suggest at least this feature of the claim, in combination with the other features of the claim.

**F.**      **Additional Remarks**

Applicant submits that all claims are in condition for allowance. Favorable consideration is respectfully requested.

If an extension of time is needed, Applicant requests the appropriate extension of time. If any fees are required, please charge those fees to Meyertons, Hood, Kivlin, Kowert, and Goetzel Deposit Account No. 50-1505/5053-64000/EBM.

Respectfully submitted,

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